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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAN MILLER, AS SPECIAL  
ADMINISTRATOR FOR THE ESTATE  
OF HANK MILLER, DECEASED,

Plaintiff,

-VS-

B.J. HEDGECOCK, IN HIS  
OFFICIAL CAPACITY AS SHERIFF  
OF PUSHMATAHA COUNTY, STATE  
OF OKLAHOMA; ET AL.,

## Defendants

No. 22-cv-164-RAW

VIDEOCONFERENCE DEPOSITION OF DUSTIN BRAY  
TAKEN ON BEHALF OF THE PLAINTIFF  
ON DECEMBER 3, 2024

REPORTED BY: MARTA MATTINGLY, CSR, RMR

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1 without one?

2 A The ones that I know of usually turned in an  
3 application.

4 Q Walk me through this process, how you would  
5 receive or how you would hire someone on?

6 A Are you asking me specifically?

7 Q Right. I am talking about, what were your job  
8 duties in the context of the hiring process back when  
9 you were undersheriff in 2021?

10 A Honestly, back then, I wasn't really involved  
11 with the hiring process, to my recollection.

12 Q Explain for me your understanding of the  
13 hiring process back in 2021 when you were hired on or  
14 when you took the role of undersheriff?

15 A Again, interview, background check, I could  
16 check references.

17 Q Anything else?

18 A Not that I can think of.

19 Q Interview, background check, and sometimes  
20 references?

21 A Yes.

22 Q In terms of the interview portion of this, did  
23 you have any specific questions or a script that you  
24 would rely on?

25 A Not generally, no.

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1 Q Were there any specific topics or categories  
2 that you would ask about?

3 A Me, personally, family, life, hobbies, things  
4 outside of work, you know, things about the job they  
5 like, what their interest is as far as the job.

6 Q Anything else that you can think of?

7 MR. POE: Object to the form.

8 Go ahead.

9 THE WITNESS: Just explain to them what  
10 being a deputy entailed.

11 Q (By Mr. Bryan) You said you would also do a  
12 background check. Tell me about that?

13 A It would be fingerprints through OSBI and  
14 criminal histories.

15 Q How do you do the criminal history?

16 A Run what we call a Triple I.

17 Q Fingerprints, criminal history. Anything  
18 else?

19 A As far as the background check, that's most of  
20 what we do.

21 Q Then you say sometimes you would also check  
22 references; correct?

23 A Correct.

24 Q Would there be any particular reason why you  
25 may or may not check a reference?

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1 A It would depend on the reference.

2 Q Explain that for me?

3 A Well, whether it be from an employer or  
4 references from another officer or from even another  
5 agency.

6 Q Would there be some references you would be  
7 more inclined to reach out to than others?

8 A Just a case-by-case basis.

9 Q Did you have any written guidance or  
10 guidelines or protocols or written policies that your  
11 agency either had expressly adopted or just informally  
12 relied on on how to navigate an applicant through the  
13 preemployment process?

14 A Do you mean prior to employment or after  
15 employment?

16 Q Preemployment. And what I'm speaking to more  
17 specifically is things that would guide the people  
18 responsible for the hiring of the applicant?

19 A If we had any -- are you asking if we have  
20 like a policy in place through that or we just --

21 Q Yeah. I think probably, in its most basic  
22 terms, there's policy, then there's kind of practice.  
23 You know, policy is kind of the written word and  
24 practice is kind of how we do things. That's kind of  
25 what I'm looking at.

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1 Did you have either a written guidance on how  
2 to go through the hiring process or did you have any  
3 type of informal way of kind of doing things?

4 MR. POE: Object to the form.

5 Go ahead.

6 Q (By Mr. Bryan) Does that make sense?

7 A I would say more -- I don't specifically know  
8 policy of that, but I would say more practice.

9 Q I am going to show you some things that have  
10 been produced in this litigation, see if you can help me  
11 identify some of this stuff. Can you see my screen, Mr.  
12 Bray?

13 A Yes, sir.

14 Q This was recently produced to us. Can you  
15 identify it for the record?

16 A Yeah. It's our drug and alcohol testing  
17 policy.

18 Q Was this in effect in 2021?

19 A I believe so.

20 Q And would this apply in both the pre and post  
21 employment period?

22 MR. POE: Object to the form.

23 If you know.

24 THE WITNESS: I'm not sure if it was.

25 Q (By Mr. Bryan) Did you rely on this in making

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1 your hiring decisions?

2 A That is our county's policy. It's in the hire  
3 packet.

4 Q And this is something that you would have had  
5 back when you started as undersheriff in 2021; correct?

6 A I believe so.

7 Q I will just mark this as Exhibit 1.

8 (Exhibit Number 1 marked for  
9 identification but not produced)

10 MR. BRYAN: And it is DDR 10 007 through  
11 DDR 10 014.

12 MR. POE: What are those again?

13 MR. BRYAN: DDR 10, 7 through 14.

14 MR. POE: If you want to see the  
15 documents, ask him to show you.

16 Q (By Mr. Bryan) Mr. Bray, do you see my  
17 screen?

18 A Yes.

19 Q What are we looking at here?

20 A That's a drug and alcohol testing consent  
21 form.

22 Q Is this part of that drug and alcohol policy?

23 A I believe that's part of their employee  
24 packet, as well.

25 Q And what are these -- why are these included

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1 in the employee packet?

2 A Is there anything below that or is that the  
3 complete form?

4 Q That's the complete form.

5 A I believe that's for the random drug test.

6 Q Are there different consent forms for  
7 different types of drug tests?

8 A I don't see the forms. We just get called for  
9 randoms, and some will be drug and alcohol, some will be  
10 just drug.

11 Q Okay. So would you do a consent form for a  
12 new hire, pre-application drug screen?

13 A The preemployment paperwork is done with the  
14 county clerk.

15 Q Do the preemployment drug screens also include  
16 this consent form?

17 A I think so.

18 Q So if somebody was hired on with Push County,  
19 you would expect that there's one of these consent forms  
20 somewhere for that individual?

21 A Yes; because I think that's from their  
22 employment packet.

23 Q Okay.

24 MR. BRYAN: This is DDR 10 025.

25 MR. POE: Are you going to make that

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1 Exhibit 2?

2 MR. BRYAN: Yeah.

3 (Exhibit Number 2 marked for  
4 identification but not produced)

5 Q (By Mr. Bryan) What role does the employment  
6 application play in the hiring process?

7 A Just their personal information, employment  
8 history, references.

9 Q You said you sometimes would call references.  
10 Would you ever call former employers?

11 A Yes. Again, it would be a case-by-case basis.

12 Q When you would call employers or references,  
13 did you take notes of those conversations?

14 MR. POE: Object to the form.

15 Go ahead.

16 THE WITNESS: I did not, no.

17 Q (By Mr. Bryan) Did you record or memorialize  
18 that conversation in any way?

19 MR. POE: Object to the form.

20 Go ahead. You can answer.

21 THE WITNESS: No.

22 MR. POE: Dustin, for the record, when I  
23 object, unless I tell you not to answer, you have to go  
24 ahead and answer.

25 THE WITNESS: Okay.



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1 Q (By Mr. Bryan) Was there anything that would  
2 trigger or require that you contact a reference or a  
3 former employer?

4 A Not specifically, no.

5 Q Do you have in your mind or just part of your  
6 practice any type of criteria that would cause you to  
7 either contact a reference or a former employer?

8 MR. POE: Object to the form.

9 Go ahead.

10 THE WITNESS: Again, it would be on a  
11 case-by-case basis.

12 Q (By Mr. Bryan) Is there anything that you  
13 would rely on, on a case-by-case basis, that would  
14 trigger you to make a call?

15 A Without speaking hypothetically, possibly the  
16 way someone left another agency.

17 Q Explain that for me?

18 A If I knew someone from here that left another  
19 agency and applied here, I would probably contact that  
20 agency to find out why.

21 Q Why would you do that?

22 A Because here I know everyone.

23 Q Beyond knowing people, is there a public  
24 safety reason associated with the reason why you might  
25 call?

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1 MR. POE: Object to the form.

2 Go ahead.

3 THE WITNESS: That's possible. But,  
4 again, that's a case-by-case basis.

5 Q (By Mr. Bryan) When I say public safety  
6 reason, what does that mean to you?

7 A It could be you would have to find out the  
8 reason someone's no longer employed there.

9 Q Would you agree that law enforcement, if they  
10 are not of good temperament, good judgment, can put the  
11 safety of the public at risk?

12 MR. POE: Object to form.

13 MR. KIM: Object to form.

14 THE WITNESS: That is possible.

15 Q (By Mr. Bryan) And would you agree that that  
16 is one of the reasons you would want to explore  
17 someone's prior employment history?

18 MR. POE: Object to the form.

19 Go ahead.

20 THE WITNESS: Again, that's possible, on  
21 a case-by-case basis.

22 Q (By Mr. Bryan) Anything else that you can  
23 think of that you use the employment application for in  
24 the hiring process?

25 A Not that I can think of.

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1 you started in the position?

2 A As far as I know, yes.

3 Q You didn't come up with the contents, or  
4 anything like that?

5 A No.

6 Q But just in terms of how you used it as a  
7 tool, you would look at the last two questions as  
8 something that could weed out a bad candidate; is that  
9 fair?

10 A A fair assessment, you should look through all  
11 of it.

12 Q Okay. Any other ways you would use this  
13 information in the questions section?

14 A Looking at the personality of the officer.

15 Q The same kind of questions, emergency contact,  
16 military service, then the disclaimer and signature, are  
17 you familiar with this document?

18 A Yes.

19 Q What are we looking at here?

20 A That's the notice of employment from CLEET.

21 Q Who is responsible for filling these out?

22 A The officer and an administrator.

23 Q On this particular one is that your signature  
24 down at the bottom?

25 A Yes.

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1 Q And that's in a box that says "Department  
2 Administrator Attestation." Do you see that?

3 A Yes.

4 Q Were you the department administrator?

5 A Yeah. Or the sheriff's designee, yes.

6 Q Did anybody give you any type of training on  
7 how to fill these out?

8 A No. It's just, they're self-explanatory.

9 Q But just to be clear, nobody has told you on  
10 how to fill these out?

11 A No.

12 Q CLEET has never given you any instruction on  
13 how to do this?

14 A No.

15 Q The sheriff never gave you any instruction on  
16 how to do this?

17 A No. If there's usually something wrong with  
18 it, CLEET will advise you. But, no, it's  
19 self-explanatory.

20 Q This question right here, it's Number 2, can  
21 you see that?

22 A Yes.

23 Q How do you satisfy that criteria?

24 A With a document from a psychologist.

25 Q Is it your understanding any psychologist who

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1 is licensed is sufficient?

2 A Yes.

3 Q And where did you get that understanding?

4 A That's been our understanding from CLEET the  
5 whole time.

6 Q Is there anybody at CLEET that's told you  
7 that?

8 A No. But visiting with the sheriff, CLEET has  
9 never objected to any other one.

10 Q Is it fair to say that the practice of the  
11 Push County Sheriff's Office at this time was that any  
12 psychological -- passing psychological evaluation from a  
13 psychologist was sufficient to satisfy this criteria?

14 MR. POE: Object to the form.

15 Go ahead.

16 THE WITNESS: I would say that's more of  
17 a satisfaction with CLEET. That's their requirement.

18 Q (By Mr. Bryan) What do you mean by that?

19 A They require that you have a passing  
20 psychological exam in your academy packet.

21 Q And you are relying on CLEET to determine  
22 whether it's compliant?

23 A No. We rely on the document, itself.

24 Q Have you looked at 70 OS 3311?

25 A Briefly, dealing with some other issues with

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1 CLEET.

2 Q Have you ever read the language in there that  
3 discusses a passing psychological evaluation must be  
4 completed by an Oklahoma licensed psychiatrist or  
5 psychologist?

6 A Yes. For someone that's not CLEET certified,  
7 or that's not a certified law enforcement officer.

8 Q Do you believe that there's an exception for  
9 people seeking reciprocity?

10 A With our understanding with CLEET, yes;  
11 because they have never required new MMPIs with  
12 out-of-state certified officers. That was a discussion  
13 that I had with the sheriff.

14 Q Have you ever spoken to anybody at CLEET about  
15 that?

16 A I haven't personally, no.

17 Q Do you have any knowledge or information on  
18 what CLEET does when they receive this notice of  
19 employment?

20 A Yeah. They usually take that and add them to  
21 our training roster.

22 Q Do you know if CLEET assumes any  
23 responsibility for verifying whether the psychological  
24 evaluation is compliant with 70 OS 3311?

25 A I can't testify to what CLEET does, no.